

AMOUNT \$ 250
SUMMONS ISSUED 7-1
LOCAL RULE 4.1
WAIVER FORM
MCF ISSUED
BY DPTY. CLK. 17
DATE 7-28-05

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.: _____

JANICE STEVENSON,
Plaintiff,

v.

NEIGHBORHOOD HOUSE CHARTER,
SCHOOL,
Defendant,

05 - 11584 DPW

COMPLAINT

MAGISTRATE JUDGE Alexander

Parties

1. The Plaintiff, Janice Stevenson ("Stevenson"), is an individual residing at 55 Hancock Street, Apartment #2, Cambridge, Middlesex County, Massachusetts.
2. The Defendant, Neighborhood House Charter School ("Employer"), is a Massachusetts non-profit charter school with a principal place of business at 55 Hancock Street, Dorchester, Suffolk County, Massachusetts.

Facts

3. Between May 2004 and August 2004, Stevenson worked for Employer as a "temp" employee through a temporary placement agency. Stevenson performed administrative and clerical duties in the Development Office.
4. In or about August 2004, the Finance Department began looking to fill a full time position assisting the Dean of Administration, Jagdish Chokshi ("Chokshi").
5. Employer told Stevenson that it preferred to hire independent contractors. Accordingly, Stevenson started "TuckNT" so that Employer would consider her a more attractive job candidate.
6. Employer hired Stevenson doing business as TuckNT for the full-time position in the Finance Department in August 2004. Stevenson earned \$25.00 per hour in her new position.

7. Employer told Stevenson that she was an independent contractor.
8. Stevenson performed administrative and clerical duties, including but not limited to drafting correspondence, filing documents and answering the telephone.
9. Stevenson did not have the right to control the way or manner in which she performed her job responsibilities.
10. Chokshi delegated assignments to Stevenson and reviewed her work product.
11. Stevenson's job responsibilities in assisting the Dean of Administration were within the usual course of business for the Employer.
12. In May 2005, Stevenson questioned Chokshi regarding the Employer's decision relative to method of payment of another worker, Lynn Clark. Stevenson feared that Employer's decision could subject Employer to liability.
13. On June 3, 2005, Chokshi terminated Stevenson.
14. Between August 2004 and her termination date, Stevenson worked approximately 676 hours of overtime.
15. Employer was obligated to pay Stevenson at the rate of 1.5 times her base rate for overtime hours. Employer failed to pay Stevenson for any hours she worked in excess of forty hours per week.
16. Employer withheld taxes on Stevenson's paycheck and did not pay her any overtime monies for hours worked in excess of forty hours per week.

CAUSES OF ACTION

FIRST CAUSE OF ACTION – VIOLATION OF 29 U.S.C. §§ 210

17. This is a cause of action by the Plaintiff against the Employer for non-payment of overtime wages in violation of 29 U.S.C. §§ 210.
18. Employer misclassified Plaintiff as an independent contractor.
19. The Plaintiff was an employee of Employer.
20. The Plaintiff worked approximately 676 hours of overtime.
21. The Plaintiff is not exempt from the overtime provisions of the Fair Labor Standards Act.

22. Employer has willfully failed to pay Stevenson's overtime wages in the approximate amount of \$25,350.00.
23. As a direct result, Stevenson has suffered monetary damages.

SECOND CAUSE OF ACTION – VIOLATION OF MASS. GEN. LAWS,
CHAPTER 149 § 148B

24. This is a cause of action by the Plaintiff against the Employer for violation of Mass. Gen. Laws, chapter 149, § 148B.
25. Employer misclassified Plaintiff as an independent contractor.
26. The Plaintiff was required, based upon the misclassification of her employment status, to pay taxes to state and/or federal government that Employer should have paid.
27. The Employer did not satisfy its obligations to make contributions to employee unemployment insurance or worker's compensation insurance.
28. The Employer deprived the Plaintiff of a proper Social Security contributions based upon the misclassification of Plaintiff's employment status.
29. Stevenson has exhausted her administrative remedies pursuant to the statute by obtaining permission from the Attorney General's office to pursue her statutory claim in court.
30. As a direct result, Stevenson has suffered monetary damages.

THIRD CAUSE OF ACTION – VIOLATION OF MASS. GEN. LAWS,
CHAPTER 149 § 52(C)

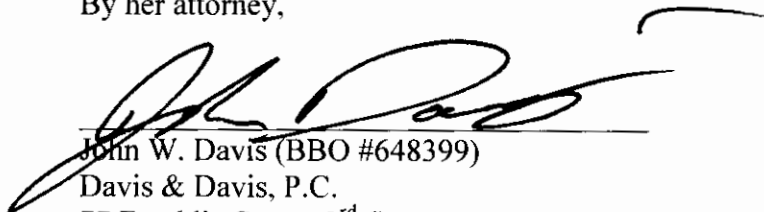
31. This is a cause of action by the Plaintiff against the Employer for violation of Mass. Gen. Laws, chapter 149, § 52C.
32. The Defendant has more than 20 employees.
33. The Plaintiff's attorney sent the Employer a properly executed Release for her personnel records.
34. The Employer has refused to comply with the statute by providing a copy of Plaintiff's personnel records.

The Plaintiff demands a jury trial on all triable issues.

WHEREFORE, the Plaintiff, Stevenson, prays that this Honorable Court:

- I. Enter an award of double damages, reasonable attorney's fees, costs and interest against the Defendant, for their willful violation of 29 U.S.C. §§ 210.
- II. Enter an award multiple damages, reasonable attorney's fees, costs and interest against the Defendant, for their willful violation of Mass. Gen. Laws, chapter 149, § 148B.
- III. Grant such other relief as this Court deems just and proper.

Respectfully submitted,
Janice Stevenson,
By her attorney,



John W. Davis (BBO #648399)
Davis & Davis, P.C.
77 Franklin Street, 3rd floor
Boston, Massachusetts 02110
(617) 933-3838

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

JANICE STEVENSON

(b) County of Residence of First Listed Plaintiff MIDDLESEX
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

DAVIS + DAVIS, P.C. 617.933.3839
27 FRANKLIN ST. 3RD FL. BOSTON MA 02110

DEFENDANTS

NEIGHBORHOOD HOUSE
CHARTER SCHOOLCounty of Residence of First Listed Defendant SUFFOLK
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

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II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 ☒ 1 Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

29 U.S.C. § 210

Brief description of cause:

EMPLOYER FAILED TO PAY OVERTIME WAGES

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

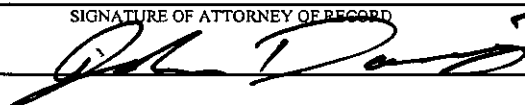
DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

7/28/05

FOR OFFICE USE ONLY



RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) STEVENSON v. NEIGHBORHOOD
CHA HOUSE CHARTER SCHOOL

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- ☐ I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

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3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐NO ☒

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐NO ☒

7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES ☐NO ☐

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division ☐Central Division ☐Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐Central Division ☐Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME

JOHN W. DAVIS

ADDRESS

77 FRANKLIN ST., 3RD FL., BOSTON 02110

TELEPHONE NO.

617 - 933 - 3858